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A
SHORT VIEW
OF THE
PRESENT STATE
OF THE
ISLE of MAN; *H*

HUMBLY SUBMITTED
To the Consideration of the Right Honourable
The LORDS of His MAJESTY'S
BOARD OF TREASURY.

By AN IMPARTIAL HAND.
Charles Scarle.

Salus Populi, Suprema Lex.

Printed in the YEAR M,DCC,LXVII.

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James Popham, Esq.

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It is a serious truth, that human
nature was plunged, for many ages,
into a state nearly approaching to that
of brutes, and in some respects much in-
ferior; and, in all countries that are ci-
vilized, not merely a long space of time,
but adventitious circumstances, and hap-
py events, together with the gradual im-
provements of skill and policy, have con-
spired to raise mankind to the enjoyments
of rational and social life.
It happens to have been the fate of
this little island, for the space of above
three centuries, to have been rescinded,
as it were, from its neighbouring country
—to have lost the protection of majesty,
and the blessings which flow from a well-
established

established government. Its fate hath been yet harder; by having, amidst the ravages of war, been despoiled of its ancient records; existing for a while without fundamental laws; at length recovering them, by oral tradition, from the mouths of ignorant men; and thus putting them together, a crude and indigested heap. Add to this, that no attempts have been at any time made, by its Lords, to improve their country; to extend their traffic; to encourage their industry.—Shut out, as it were, from all social advantages; deprived of the means as well as the privilege of commerce with its neighbouring countries; they have enjoyed unnoticed, the bounties of nature, dealt to them with too frugal a hand.—Of late years, some few adventures amongst the natives, having been shewn the way by strangers living with them, allured by glaring profits, and denied the benefits of a fair trade, have been tempted to carry on a clandestine one; but this trade, for the wisest reasons, hath been totally suppressed by the legislature of Great-Britain.

The increasing profits of this clandestine trade had drawn many foreigners hither, and invited more and more of its natives to embark in it; and some few of them per-

perhaps a dozen at most, had enriched themselves considerably, when an absolute stop was put to it. — This trade employed some hundreds of the poorer sort, in different branches; and it introduced luxury and plenty, and made money circulate in the principal towns of the island: but the far greater number of people who inhabited villages, the mountains, and the valleys, were strangers to the trade and its advantages — An industrious, hardy race, *patiens operum, parvaque assueti*, whose most luxurious draughts were milk, and whose daily food was sought for in the bosom of the deep.

It is now feared, by many amongst them, who have been taught to live otherwise, that they must again return to their primitive state — be replunged into their original ignorance and rusticity; that for want of trade, they must want also specie for the common intercourse of life; that they must supply each others necessities, by exchanging commodities, and relapse at once into poverty and barbarism.

A little reflection on the nature of man in general; on the desire of knowledge; when once the seeds of it are sown; on the experience of past ages, and the natural tendency of all human affairs; will evince
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at once the weakness of this apprehension.

The communication which they have had, of late years, with their neighbouring countries, and the conversation of strangers residing in their own, have opened their minds, enlarged their ideas, and given them notions of trade, of agriculture, and manufactures; in which they are daily improving, as their several abilities will permit. The merchants, who have enriched themselves by trade, are now purchasing large tracts of uncultivated land, and improving them at great expence; an emulation seems to rise among them who shall be the greatest and the best farmer. The growth of wheat, and of flax, and the manufactory of linen cloth, in the last year, were treble of what they have ever been before; and the produce of the next year, by all appearances, will exceed this tenfold. This spirit will naturally diffuse itself through the country, and warm the breast of every individual; the pleasures of gain, drawn from industry, are particularly sweet, and the prospect of it peculiarly alluring. Naked and wild as the country now is, not one third of it known to culture, it will soon wear a different face, when the love of improvement

ment, by these examples, spreads amongst its inhabitants—and spread it now must, 'till some degree of perfection is attained. How far indeed, the assistance of the legislature of Great-Britain may encrease and accelerate their improvements; how far indulgences in trade, when they are seen to deserve them, may open their views, enlarge their plan of manufactures, and tend to the earlier encrease of people and of wealth, is left to the wisdom of the British Parliament to determine. It must, however, be presumed, that an island, situated as this is, and capable of affording so many advantages to Great-Britain, by its number of inhabitants (near twenty-five thousand)—by its skill in maritime affairs,—by its fisheries,—by its growing industry, by its unshaken loyalty, at all times, to the present happy establishment—may be worthy of the legislature's more immediate care. Enough hath been done to restrain its illicit trade; an effectual stop is put to it by the regulations already made; so effectual as to make the revival of it impossible: but, what is yet more effectual than the severest laws, is the prospect of their own interest, which is now seen in their obedience to them.

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The effects of a trade in opposition to the laws of Great-Britain have been visibly injurious to the general good of the country: true it is, that it hath enriched a few, a very few, whilst it hath taken off hundreds from their natural bent of industry, and rendered them, by luxury and extravagance, unfit almost to return to better means of subsistence. It hath called away the attention of the most considerable amongst them from their country's interest, to the pursuits of their own private gain, and they have been contented to see around them barren mountains, and uncultivated deserts, whilst they have enjoyed the prospect of real or imaginary wealth. A more pleasing scene is now in view. — The native merchant will not desert his country; and, since traffick is no more, is now beginning to cultivate his land; nature pleads hard for his native soil; and the joys of improving it exceed all he hath ever known: a national ardor begins to prevail, in the place of an unnatural commerce. He now looks about him, and wishes to see every thing flourish, which may tend to the common happiness and comfort. Whilst he studies to make his own and every one's property more valuable, he wishes to see it secure and permanent. He is desirous to
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Introduce plenty and peace with it; and, with this view, he looks towards the laws of his country, as the sole foundations on which he can secure property and quiet possession.

Public tranquillity (says the great Montesquieu) *is the natural end of a state that has no foreign enemies, or that finds itself secured against them by barriers.* This valuable blessing surely exists in nature; but, from the weakness of human wisdom, the depravity of laws, and the war of passions, is too seldom found; and when found, too rarely preserved. It is a child of liberty, which must find its nourishment in the essence of the constitution; which must be reared by wise and salutary laws, and brought to perfection by a due and prudent administration of them. To encourage its growth, the road to justice must be open and free: she must be easy of access; steady in opinion; slow to anger; an enemy to oppression; and abhorrent of all guilt. Her influence must extend itself over the whole system of government; she must preside in the courts of law; she must be seen in its judgments; she must be felt in its executions.

To obtain this wished-for happiness, we must look into the nature of the consti-

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tution, and the system of laws founded on it; we must see what it is possible to do, and what is already done.

The government of the island consists of a chief *Governor*, who represents his *Sovereign*; of his *Council*, who are the *Receiver General*, the *Keeper of the Rolls*, and the *Attorney General*. And besides these, there are two *Deemsters*, whom the Governor calls to his Council, when he thinks proper. There is also another branch of the legislature, called the *Twenty-four Keys*.

The *Governor* presides in the courts of common law and chancery; he asks the opinion of his Council in matters which come before him, and approves or rejects it, at his pleasure.

The *Deemsters* act as judges in criminal matters, as well as in matters of debt and trespass; in some cases they preside over juries, in others they determine without them; and their judgments may be appealed from to the Governor.

The *Twenty-four Keys* enact statute laws, with the concurrence of the Governor and Council, and are said to represent the people, but it is not by their own choice; for the Keys are appointed by the Governor, and removed by his order. From hence it

is plain, that *the whole civil power is derived from, and centres in, the Governor.*

The *Laws* themselves are a compound of *Statute Laws*; of *Breast Laws*; and of *ancient Customs*.—The *Statute Laws* are, for the most part, loose, inexpressive, and contradictory, as well as shamefully partial; for, in order that the equity of the law-givers may be as conspicuous as their wisdom, they always take care to exempt * themselves expressly from every pecuniary taxation.—The *Breast Laws* are certain established rules, which seem to have been the opinions of magistrates, handed down as explanatory of the laws themselves; a kind of customary maxims, vague and indeterminate.—The *Customs*, of which there are thirty-six upon record, are, excepting only a few good ones, weak, ridiculous, and illegal.

This medley of legislation will be seen best in its operation on the subject; its inconsistency will be there discovered. And, indeed, among a people who live in so simple a manner as those of this island, the judicial power is always of more importance than the legislative; as they are less governed by laws than customs, which ge-

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* Vide the late Tax on Dogs, and the Statutes at large.

nerally admit a great latitude of interpretation.

But it is strange, that what ought to be mainly attended to, and to be the principal object of concern, both with the legislator and the judge, I mean *the liberty of the subject*, hath never been provided for by these laws, nor considered by the magistrates as a point worthy of their attention. — Sudden and arbitrary imprisonments, without any form of law, meet with their countenance and encouragement, and are continually practised, by the meanest officers in power, on the slightest occasions; who, not being accountable for their conduct, become the worst of tyrants. Upon any fancied indignity offered to these wretches, or to their friends or relations; or for nonpayment of arbitrary fees; they will forcibly enter a house, even in the night-time, (merely *ex officio*) and drag its owner to prison in a miserable fort, and there keep him, 'till cold and wretchedness shall glut the officer's revenge, or extort his illegal demand.

Ex parte judgments, and hasty executions, are what the law, by its constant practice, seems to delight in: in all proceedings before the *Deemsters* on bonds, notes, bills of exchange, and the like, no
plea,

plea, or essoin, is allowed, on the part of the defendant, however particularly his case may be circumstanced; it is enough that his hand-writing is made to appear, and immediate execution is thereupon granted: it is true, that an appeal will lie from hence to the Chancery; but you must first petition the Deemster for leave to make it, which he is apt to refuse, when he thinks proper; and if not, he always sits in judgement there with the Governor, and is seldom known to fail, in the means of vindicating his own conduct.

To give another instance of these summary adjudications: If you hire a house for a year, and before the end of a month, happen to disagree with your landlord, he goes to the Deemster, and tells him, that he suspects you intend to leave the island, without paying his rent; the Deemster immediately gives a *verbal* order to the Coroner, to distrain for the whole year's rent: the Coroner comes, and takes all, or any part of your goods away; or locks up the house, and sells whatever he pleases; and accounts to you when he thinks proper: and if you apply to the seat of Government for redress against this outrageous act of violence, the matter is referred back to the Deemster for his decision; which is, to confirm

confirm his sentence, and to countenance his oppression; and effectually cuts off all hopes of redress: for it would certainly be in vain to return to him for relief, from whose judgement you have so lately appealed, and of whose justice you have such a melancholy conviction.

In all disputes between natives and strangers, by the letter or construction of every statute and customary law, there is an avowed partiality to the natives of the island; — a mean and ill-judged policy, which shuts the door against all social intercourse, and every liberal advantage! — Any stranger, however innocent, may be arrested at the expence of two shillings, the price of an action, for any sum whatever, no oath being required of the plaintiff as to the amount or nature of the debt; and the defendant is immediately obliged to give bail by two *natives*, or be imprisoned. And, what makes the matter still worse, common bail for the appearance of the party is not admitted, but it must be special bail, to answer the event of the suit, which it is almost impossible for a stranger to provide.

It often happens, that one stranger, in spleen, shall arrest another for five hundred pounds, and get him imprisoned; and the prisoner,

prisoner, in revenge, arrests his prosecutor for a thousand pounds, which brings him to the same place; they now see their folly, and acquit each other. Yet, if, in another case, the prosecutor happens to be a native, he gains his end, for he cannot be imprisoned for debt; and there is no danger here from an action for false imprisonment; the courts seldom giving any damages; and, when they do, they are too inconsiderable to be worth suing for; a few shillings at most.

A stranger calls another a Rogue, and is arrested for slander in five hundred pounds damages, and sent to prison, for want of bail, by two natives (for how shall they be brought to endanger themselves for a stranger) and yet if he meet that man on the highway, and beat him almost to death, with any weapons, however offensive, the law inflicts no other punishment than a fine of thirteen shillings and fourpence; a remarkable instance of the *equality* and *moderation* of these laws!

This privilege, which the natives claim, of not being held to bail for debt, is full of mischief; it is the ruin of many an unhappy stranger who comes among them, and is plainly calculated to destroy all commercial credit!—There is another of the like nature,

nature, which they also claim; and that is a priority in the payment of all debts, of what kind soever; from hence it frequently happens, that fictitious claims are set up, to protect a man's effects from the payment of any debt, however just, to a stranger; or, that the Manks creditor gets his full demand, and the unfortunate stranger goes unpaid.

These privileges are part of their customary law; and tho' it is a maxim, I think, that all customs, which are manifestly absurd or unjust, shall be exploded; (*non diurnitas temporis, (says my Lord Coke) sed soliditas rationis consideranda est.*) Yet, these have ever been supported, by the courts of judicature of this island.—Another customary law, which seems shocking to reason and humanity, subjects to imprisonment the widow of a stranger dying insolvent: it is not enough that she hath lost the protection of a husband, together with the means of livelihood; the measure of her distress is not full, till she perishes in a dungeon; of which there have been melancholy instances.

An attempt of late years hath been made, and is yet, I am told, in embryo, to relieve the stranger, in some sort, from the severity of these privileges, (but how unworthy

worthy the means!) by an act of naturalization.—As an Englishman, I blush to own, that there is a spot in Europe, where he, with all his boasted liberty, shall become a slave to ignorance and barbarism; and this spot too, in the very centre of the three kingdoms, where liberty is known to flow with the purest stream, the admiration and envy of the whole world.

That great and valuable blessing, that wise institution of trial by juries, becomes here the instrument of oppression, ever full of corruption and delay. Traverses are allowed from one jury to another, from four to six men, from six to twelve, from twelve to twenty-four, (as the subject of complaint varies) who, after being sworn, and the cause of action read to them, are dismissed; and they meet afterwards, at their own leisure, subject to no controul, at some alehouse, at the expence of the parties, and there drink and quarrel, and meet again and again, and do the like; till the subject may be forgot before a verdict is obtained; or, what is still worse, its glaring partiality, naturally introduced by this mode of enquiry, gives sufficient ground for new litigations.

In all breaches of the peace, the laws are extremely weak, and the execution of
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them shamefully corrupt.—A felon, if any body be at the trouble of taking him, which is seldom the case, is condemned by law to transport himself to England or Ireland; and forbid, on pain of death, to return again to his own country: an injunction which the law might very easily have spared.—Lesser kinds of theft, for the most part, go unnoticed, as they have usually gone unpunished.

All degrees of assault are punished, by a certain fine of thirteen shillings and fourpence; and, though there be an appearance of lenity in this law, yet surely it is a most cruel one; for it is giving the liberty of doing ill to those who are best able to pay for it.—It is an observation, (I think, of my Lord Bacon) that *those laws are the mildest which lay the most terrible constraint on iniquity, and thereby prevent the multiplication of crimes*; a maxim of jurisprudence, which has been terribly mistaken in this country.

I cannot omit to mention a customary law, which affects all degrees of people; and is equally strange and oppressive. It gives a power to the Deemsters, Coroners, Moars, and Serjeants, (which two last are officers who collect the rents of the barony) of, what is termed, YARDING servants;
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by which these officers can take away any body's servant, and oblige him or her to live with them, for a year, at stated wages; such as fifteen shillings for a plowman, ten shillings for a driver, eight shillings for a horseman or lad, and nine shillings for a maid-servant; and, what is more strange, this law hath been aided and regulated by several statutes. However, the legislative body, with their usual sagacity, have taken care to avoid the inconvenience of it themselves, by providing*, that the household hired servants of the Twenty-four Keys shall not be yarded.—It is obvious enough, that this law tends to discourage all improvement which the servant is capable of, either from his masters care, or his own; for, whenever he shall distinguish himself for his diligence or fidelity, he is liable to be yarded away by one of these officers, or perhaps by all of them, in their turn, and his good qualities are to be rewarded with starving wages, and constrained servitude. This, and many other of their customs, appear to be the remains of feudal tyranny, now perverted to gratify narrower interests, and more selfish purposes.

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* Vide Stat. 12 June, 1662.

These are a few, amongst the many instances of oppression, of fraud and injustice which these laws admit of, and to which they give a sanction. How strange is it that they should have subsisted so long! How strange, that the rulers of the people, whose duty it was to amend their laws, to polish their manners, and to civilize their customs, should have made it their only care to hand down so many Gothic institutions to this enlightened age!—To guess at a reason for it (and I can find but one) it is owing to the accident of their governors having been, for the most part, military gentlemen, unacquainted with the principles and nature of law; and instead of bringing instruction with them, they have come hither to be instructed; instead of governing, they have become the pupils of some leading man of their council, whose notions have been rigidly confined to the laws of his own country, as his education hath seldom been out of it. And this reason will appear more obvious, when you look into their courts of judicature, and see their modes of practice; an incoherent motley jargon, stolen, without judgment, from the pleadings of English lawyers, and put together without form, and without meaning.—Look farther into the
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the internal police of the country; at the capital itself, under the very eye of government, and it should seem as though government were asleep: no regular market for the convenience of its numerous inhabitants; no assize of bread to ease the poor; no standard weights or measures to guard against the rapacious tradesman; nothing but disorder every where; and monopolies and extortion flourish untrouled.

When laws are thus partial and defective, property must be ever insecure; when the weakness of administration renders the comforts of life small and precarious, how shall industry prevail, or science hope to flourish?

After all that hath been said, there yet remains a wound in the constitution, the most difficult to be healed of any yet described.—That avowed enemy to liberty and peace, *The Spiritual Court*, exults here in all its fullness of power, and wonted despotism: To say where it encroaches on the temporal courts, and tyrannizes in its own; where it strides over the boundaries of property and of law, and triumphs in its strength; is pursuing a torrent from the mountains, and describing its desolation. It deals out its anathemas, without distinction, on the most trifling occasions; and

and by its censures, penances, and excommunications, terrifies the multitude to obedience.

"Till very lately, for non-payment of tythe, the delinquent was excommunicated; which, I believe, *after proper citations*, is the practice of other spiritual courts; but here the matter went a step further; if, in eleven weeks after, he did not procure absolution, which may be called payment of the money, he was delivered over, body and goods, to the lord of the island; who, being luckily endowed with some christian principles, hath renounced a right founded on such horrid persecution.

One instance of the over-weening pride of the members of this court is remarkable; a person, under censure for non-payment of tythe, was sworn on an inquest in a court of law, where one of the Vicars General happened to be present; who officiously objected to the man's qualification; and upon the judge's reproving the vicar for his interfering; he arrogantly told him that "were he himself under the church's displeasure, he should not preside in that court." The judge wanted just the same degree of spirit, as the vicar did of decency and moderation.

In testamentary matters, they have the sole direction of one half of the testator's effects,

effects, which they are pleased to call "The Dead Man's Part;" a division which I could never find any reason for, unless it be, that no man *living* dares call them to an account.

In criminal matters, as perjury, fornication, sabbath-breaking, and the like, they judge without distinction, and punish without mercy; having all the while a great veneration for their fees, which every persecution naturally tends to enhance.

In all disputes for tythes, the vicars general are the sole judges: and, in case of disobedience to summonses, or contempt of orders, the party offending is hurried away to a horrid dungeon, under the graves of the dead, in an old church, upon a little island in the sea, into which the tide often flows: and here he must stay, 'till a bond is procured, with sufficient sureties, that he will submit quietly to the penances inflicted. A melancholy resemblance of inquisitorial power!

From hence it is plain, how strangely the end of all government is perverted; when the ecclesiastic and civil power go hand in hand to ruin the peace of the subject; and when, what one cannot effect by its tyranny and usurpation, the other supplies by its weakness and partiality.

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How can a country possibly flourish in this state of bondage? how shall it grow in arts and wealth, till liberty once rears its head, freed from the shackles of slavish customs, and arbitrary law? examples are frequent; and we need not go very far back into our own history, to see the effects which wholesome laws and good government have upon the minds of the people: they insensibly change their manners, and give a new turn to their spirit: when the policy of government calls for war, they are emulous to distinguish themselves for their country's good; when the arts of peace prevail, the same spirit actuates the husbandmen, manufacturers, and merchants, and prompts them to imitate their neighbours, with rival industry, in every occupation. From hence too, literature is encouraged to raise its head, and dissipate the clouds of ignorance and barbarism.

Such are the advantages which must naturally accrue to this country, when the government of England shall think proper to attend to its happiness; when it shall amend its laws, as well as restrain its trade, and make its inhabitants wiser, as well as better, subjects.



